TAB W

LIHTC Policy Bulletins

Policy 19

And

Policy 21

Updated

December 13, 2005

POLICY BULLETINS

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

LOW INCOME HOUSING TAX CREDIT PROGRAM

INDEX

Gross Rent Floor Election .... LIHTC Policy #1

Married Individuals Living Apart .... LIHTC Policy #5

Deeper Targeting and Multiple AMGI Levels .... LIHTC Policy #6

Prohibition Against Applying Minimum Income Requirements for Prospective Section 8 Recipients .... LIHTC Policy #7

Child Support Documentation .... Being Amended

Non-custodial Children as Household Members .... Being Amended

Common Area Units .... LIHTC Policy #10

Issuance of Returned or Recaptured Credit .... LIHTC Policy #12

Application Pre-Reviews .... LIHTC Policy #14

Definition of Federal, State, or Local Funds .... LIHTC Policy #15

Tenant Ownership .... LIHTC Policy #16

Compliance Monitoring Fees for Tax-Exempt Projects .... LIHTC Policy #17

Use of Tax Credit in a Cool Cities Designation .... LIHTC Policy #19

Financial Capacity and Creditworthiness .... LIHTC Policy #20

Guidelines for Reviewing Eligible Projects .... LIHTC Policy #21

LIHTC Policy #1
September, 1994

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

GROSS RENT FLOOR ELECTION

The maximum (gross) rent which a project owner can charge for a LIHTC eligible low income unit is based on the area median gross income (AMGI). Under Section 42 of the Internal Revenue Code, the gross rent for a unit cannot exceed 30 percent of the imputed income limit for a qualified low income household (50 percent or 60 percent of AMGI).

The AMGI figures are published by the Department of Housing and Urban Development and are revised on an annual basis. As the AMGI of an area changes, the rent limitation for a particular unit will change.

If the AMGI decreases, a reduction in the gross rent may be required. However, the gross rent limitation does not ever need to go below the limitation applicable for the earliest period the building (that contains the unit) was included in the determination of whether the project is a qualified low-income housing project (gross rent floor).

IRS Revenue Procedure 94-57 provides clarification on determining the effective date of the gross rent floor. It states the general rule that the gross rent floor takes effect on the date the credit agency initially allocates tax credit to a building; however, an owner may elect to have the gross rent floor take effect on a building's placed in service date.

To establish the gross rent floor effective date from this time forward, a project owner will be required to file an election statement with the Michigan State Housing Development Authority (MSHDA Form # LIHTC 023). The project owner may opt to establish the gross rent floor at either the date of allocation or at the placed in service date. This election statement must be included in the application for a Commitment of Tax Credit or the Carryover Allocation of Tax Credit, whichever occurs earlier. In any event, any election must be made prior to the placed in service date. Once this election is made, it is irreversible. Owners are not required to file any documentation with the IRS to make the election.

For those projects that have allocations but were not placed in service prior to September 23, 1994, owners may establish the rent floor for a building using either the allocation date or the placed in service date. To make this election, the project owner must complete MSHDA Form # LIHTC 023 and return to MSHDA at the earlier of October 15, 1994, or the building's placed in service date. If an owner does not make a timely election, the rent floor will be considered to have taken effect on the allocation date.

For projects which were placed in service prior to September 23, 1994, the gross rent floor date is deemed to be the date that the building was placed in service.

Michigan Department of Commerce
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
735 East Michigan Avenue – P.O. Box 30044
Lansing, Michigan 48909

GROSS RENT FLOOR ELECTION STATEMENT

LOW INCOME HOUSING TAX CREDIT

As owner of ______________________________ located in _________________________,
(Name of Project) (City or Township)

_________________ County, Michigan, I hereby elect the effective date of the gross rent floor
(County)

for this project to be:

☐ date of allocation

☐ placed in service date

____
(Name of Ownership Entity)

____
(Federal Taxpayer ID #)

____
(Signature of Authorized Official)

____
(Title)

____
(Typed Name of Authorized Official)

____
(Date)

____
(LIHTC Project #)

FOR MSHDA/LIHTC USE ONLY:

Date of Allocation: ______________

Placed in Service Date: ______________

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

MARRIED INDIVIDUALS LIVING APART

This policy statement is to clarify the treatment of prospective tenants of Low Income Housing Tax Credit (LIHTC) projects who are married persons but who do not plan to reside with a spouse. In some situations, the income of the prospective resident alone may be within LIHTC guidelines, but with the inclusion of the absent spouse's earnings, the household would be ineligible to reside in an LIHTC unit.

The determination of annual income must be made in a manner consistent with the Department of Housing and Urban Development (HUD) Section 8 guidelines in HUD Handbook 4350.3. While the HUD Handbook does not specifically address the situation discussed above, the following is clear:

1. Spouses are counted as family members [Figure 3-6, Page 3-56]; and
2. "The head, <u>spous</u>e, and co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent" [Part 3-10a(3), Page 3-15]. The "59 Data Requirements" are discussed in Appendix 11 of the Handbook, which outlines the methodology for certifying compliance with HUD's tenant eligibility requirements.

MSHDA's position is that, in the absence of documentation that a spouse is permanently absent, he or she should be considered a "Temporarily Absent Family Member" and that spouse's income and assets must be included as part of household income. The income of permanently absent household members would not have to be included as part of household income. To document that a spouse is "permanently absent", one of the following, in order of preference, must be obtained by the owner/management agent:

A. A copy of official documentation from a court or official agency providing legal aide indicating that a divorce is in process; or
B. A copy of a legal separation agreement or official documentation that such is in process; or
C. A notarized statement* from the tenant; <u>and</u> one of the following:
    (1) A statement** from a person who provided counsel to the tenant in an official capacity as part of his or her <u>occupation</u> (i.e. attorney, therapist, marriage counselor, clergy). The statement must be notarized or prepared on the "counselor's" business letterhead. Prepared statements by family members, friends, acquaintances, etc. about informal counsel are specifically excluded as acceptable documentation; or
    (2) A copy of a legal restraining order or documentation that the tenant has experienced domestic violence; or

Married Individuals Living Apart
Page Two

*The tenant's notarized statement must specifically indicate all of the following:

(a) The spouses operate as separate households and the absent spouse will not reside in the unit;

(b) The spouses do not intend to file a joint tax return for the present year or for the calendar year-ending the upcoming twelve-month period. For example, if the tenant is to move into the LIHTC unit in November 1997, the statement must indicate that tax returns are not anticipated to be filed jointly for the years ended 12-31-97 and 12-31-98, <u>and</u>

(c) The separation is **permanent**.

**The "counselor's" statement must specifically indicate all of the following:

(a) That the "counselor" has conversed with the prospective tenant regarding the marital situation within the past 30 days; <u>and</u>

(b) The separation appears to be **permanent**.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

DEEPER TARGETING AND MULTIPLE AMGI LEVELS

A project must achieve a minimum threshold of low income occupancy to qualify for any Low Income Housing Tax Credit (LIHTC). At a minimum, either 20% of the units must be occupied by residents whose annual incomes do not exceed **50% of area median gross income (AMGI)** or 40% of the units must be occupied by residents whose annual incomes do not exceed **60% of AMGI** (as determined and adjusted annually by HUD). The income level of the set-aside (either 50% or 60%) is termed the **Minimum Set-Aside AMGI.** The percentage of total residential units in the project that are reserved as LIHTC units is known as the applicable fraction.

Many project owners elect to target a higher percentage of units to low income persons and/or to target a percentage of the units to persons at lower income levels than the minimum set-aside. Often, projects have multiple AMGI targeting levels. For example, a project may reserve all of its units for low income persons (a 100% applicable fraction) meeting one AMGI level or it may have 100% of units targeted for low income persons, but at several different AMGI levels. Other projects may be mixed income projects in which a portion of the units are reserved for low income persons and the remainder of the units are unrestricted. The mixture of AMGI levels that a project is targeting is termed the project mix.

An owner/manager of an LIHTC project must be aware of all tiers in the project's income limits. He or she must know what percentage of the residential units are LIHTC units and at which AMGI these units must be targeted. The owner of a project is responsible for determining which AMGI a tenant meets. To meet the **60% AMGI,** a household must have an annual income that is at or below the **60% AMGI at time of move-in** and be rent-restricted at the **60% AMGI.** A household which meets the 60% criteria is deemed a ***"60% household".*** A household which meets the **50% AMGI,** is deemed a ***"50% household",*** etc.

Income changes are important. In addition to certifying a household's eligibility at move-in, family income must be re-examined (recertified) at least annually. If the income of the occupants of a qualifying unit increases to more than 140% of the Minimum Set-Aside AMGI, the unit may continue to be counted as a low income unit as long as the unit continues to be rent-restricted and the next unit of comparable or smaller size in the building is occupied by a qualified low income tenant (this is known as the Next Available Unit Rule or the 140% Rule). **The Next Available Unit Rule applies separately to each building in the project.** In 100% LIHTC projects, because the next available unit is always leased to an income-eligible household, the need to replace a household only occurs when the household vacates the unit.

This policy is to clarify MSHDA's position regarding the treatment of household income increases for projects that have multiple income levels.

SECTION 1: 100% LIHTC Projects (with one AMGI Level)

As stated previously, a project must meet one of the two minimum set asides. In the simplest structured project, a project has a 100% applicable fraction, targeted to persons at the **Minimum Set-Aside AMGI** (i.e. 100% of the units @ **60% AMGI** or 100% @ **50% AMGI**). A household's eligibility is determined at the time of its move-in to the LIHTC unit. A household which, for example, meets the **60% AMGI** is deemed a ***"60% household".*** The household continues to be eligible after its income increases to more than 140% of the applicable income limit because the next available unit is always leased to a household meeting the qualifying AMGI.

Some projects with 100% applicable fractions may have elected to target the units to persons with lower income levels (i.e. 100% @ **40% AMGI** or 100% @ **30% AMGI**). In these projects, a unit continues to qualify as an LIHTC unit even if the household's income rises above the applicable AMGI level (so long as its rent remains restricted) and even after it rises to more than 140% of the applicable AMGI level and the Minimum Set-Aside AMGI because the next available unit is always leased to an eligible household. The need to replace a household only occurs when the household <u>vacates</u> the unit. When the household vacates the unit, another household meeting the applicable AMGI level must replace it.

In summary, once a household is deemed as a ***"60% household"***, it is always eligible as a ***"60% household".*** A ***"60% household"*** must be replaced by a ***"60% household".*** The same is true for any other AMGI level that a project might be targeting.

SECTION 2: 100% LIHTC Projects (with multiple AMGI Levels)

In a second type of LIHTC project, all units are LIHTC units, but the project has multiple income levels at which its units are targeted. For example, a 100% LIHTC project may target a portion of its units to households at the **60% AMGI** level, a portion at **50% AMGI** level, and a portion at **30%AMGI** level.

As in all 100% LIHTC projects, because the next available unit is always leased to an eligible household, the need to replace a household only occurs when the household <u>vacates</u> the unit. Thus, for example, if a ***"30% household's"*** income increases to above 140% of the **Minimum Set-Aside AMGI,** nothing must be done. This unit can continue to be counted as a ***"30% household"*** as long as the gross rent remains restricted at the **30% AMGI.** When this or any other ***"30% household"*** <u>vacates</u> a unit, it must be replaced by a ***"30% household"*** (though not necessarily in physically the same unit and not necessarily in the <u>next</u> available unit). The project owner, however, must pay close attention to the AMGI levels of its tenants to ensure that enough units are occupied by/reserved for the appropriate income levels to meet the required percentage of units that must be targeted at each AMGI level. In other words, if 50% of the units must be targeted to persons at or below **40% AMGI** and 50% at **60% AMGI,** the project cannot have 51% of the units at **60% AMGI.**

In summary, once a household is deemed as a ***"30% household",*** it is always eligible as a ***"30% household".*** A ***"30% household"*** must be replaced by a ***"30% household".*** The same is true for any other AMGI level that a project might be targeting.

SECTION 3: Mixed Income Projects (with one AMGI level for the low income units)

In mixed income projects, a portion of the residential units are LIHTC units and a portion of the units are market rate (unrestricted income levels and rent amounts). Owners of mixed income projects must pay close attention to the Next Available Unit Rule.

As in 100% LIHTC projects, when a ***"40% household"*** simply vacates a unit (the household's income did not increase to more than 140% of the **Minimum Set-Aside AMGI**), it must be replaced by a ***"40% household"*** (though not necessarily in physically the same unit) in order for the project mix and applicable fraction to be maintained. The Next Available Unit Rule does not apply to move-outs. Unlike 100% LIHTC projects, however, in mixed income projects, if a ***"40% household's"*** income increases to above 140% of the **Minimum Set-Aside AMGI** (and the household remains in the building), the next available unit in the building must be occupied by a low income household.

In summary, in mixed income projects, once a household is deemed a ***"40% household",*** it is eligible as a ***"40% household"*** until its income increases to above 140% of the **Minimum Set-Aside AMGI,** at which time the next available unit rule is triggered.

SECTION 4: Mixed Income Projects (with multiple AMGI levels for the low income units)

In mixed income projects, a portion of the residential units are LIHTC units and some are market rate (unrestricted) units. Often, mixed income projects contain multiple AMGI for the LIHTC units. For example, 50% of the residential units are LIHTC, 50% are unrestricted. Of the 50% LIHTC units, 50% (25% of total project) are at **60% AMGI** and 50% are at **40% AMGI**. The owner of the project must pay close attention to ensure that the project mix is maintained.

When a ***"40% household"*** simply vacates a unit (the household's income did not increase to more than 140% of the **Minimum Set-Aside AMGI**), it must be replaced by a ***"40% household"*** (though not necessarily in physically the same unit and not necessarily in the next available unit). When a ***"40% household's"*** income increases to above 140% of the **Minimum Set-Aside AMGI,** the next available unit in the building must be rented to a low income household.

In summary, in mixed income projects, once a household is deemed as a ***"40% household",*** it is eligible as a ***"40% household"*** until its income increases to above 140% of the **Minimum Set-Aside AMGI,** at which time the next available unit rule is triggered. The ***"40% household"*** must be replaced by a low income household. The same is true for all other AMGI levels a project is targeting.

NOTES:

(1) **MSHDA's position regarding the point at which the Next Available Unit Rule is triggered.** IRS regulations indicate that the Next Available Unit Rule is triggered when a household's income increases to more than 140% of the qualifying income level. Since "Deeper Targeting" options are State policies, not Federal policies, and since a household can qualify (in general, based on IRS policy) for an LIHTC unit if its income is less than the project's **Minimum Set-Aside AMGI,** MSHDA has deemed this as the point at which the next available unit rule is triggered. The next available unit rule is not triggered until a ***"40% household's"*** income, for example, increases to more than 140% of the **60%MINIMUM - SET-ASIDE AMGI,** not when it increases to more than 140% of the **40% AMGI.** The Minimum Set-Aside AMGI is used as the triggering point for the next available unit rule so that the project mix can be maintained and so that a project will not have to make more than the required number of units a particular AMGI level.

(2) **140% Rule takes Precedence.** If a household vacates a unit, but there is another household whose income has increased to more than 140% of an AMGI level, the next available unit is triggered at that time. For example, if a ***"60% household"*** vacates a unit, but there is a ***"30% household"*** that is above 140% of the **Minimum Set-Aside AMGI,** the 140% rule takes precedence. The next available unit must be rented to a low income person. This new tenant must be LIHTC-eligible and ideally be a 30% household, however, it can be any AMGI level (except market rate). The over-income household can continue to be counted as a 30% household (as long as every next available unit in the future continues to be rented to a low income household) or it can be made a market rate unit or other AMGI level for which it qualified for at recertification. The owner should pay close attention to ensure that the project mix is being maintained.

(3) **The AMGI level of a household is made at the time of certification. Once designated, the AMGI cannot be changed unless the household is recertified.** A ***"50% household",*** for example, cannot be designated as a ***"40% household"*** unless it was recertified as meeting the 40% income restriction, and deemed as such at that time, since the proposed new AMGI level is lower than the AMGI level the household qualified for at move-in. A household can be redesignated to a higher AMGI level at move-in, regardless of new income amount. In the case of the ***"50% household"***, it could be changed to a 60%. Recertification includes completion of a Tenant Income Certification, obtaining third party verifications, calculation of new income amount, etc. and could be either an interim or an annual recertification.

The only exception is when implementing the next available unit rule. While waiting for another unit to become available, the household whose income has increased can temporarily be counted as meeting the old AMGI. After another unit is available, the previous household's AMGI level can be changed at that time.

(4) **One AMGI level only.** To meet a particular AMGI, a household must have a certified annual income that is less than or equal to that amount. Therefore, a household at **30% AMGI** could also meet the **40% AMGI, 50% AMGI,** and **60% AMGI,** but not vice versa. A household, however, can be deemed as one AMGI only. A household cannot, for example, be simultaneously deemed or treated as a ***"30% household"*** and a ***"40% household"*.**

(5) **AMGI changes are optional**. Changing a household's AMGI level is optional and is not mandated by MSHDA. The 140% income limit is not used in determining whether or not the household can be converted to a different AMGI limit..

(6) A household can be made a market rate unit at recertification (provided the project is a mixed income project with unrestricted units), regardless of its income amount and regardless of whether or not it would qualify at an AMGI the project is targeting. MSHDA has no requirement that a specific household be made or retained as an LIHTC household. If a household is changed to a market rate tenant, it may have to be replaced by a household meeting the old AMGI level in order to maintain the project mix and/or applicable fraction.

(7) This policy statement is intended to be used for LIHTC purposes only. Project owners should check with its financing sources to determine if it has additional constraints.

(8) The following are scenarios:

Minimum Set-Aside = 40% @ 60%, Applicable Fraction = 50%. Next Available Unit Rule is triggered at $25,200.		
% of Total Units	**Area Median Gross Income**	**Current Max. Allowable Income for One Person**
50% of units	Market Rate	N/A
20% of units	60% AMGI	$18,000
10% of units	50% AMGI	$15,000
10% of units	40% AMGI	$12,000
10% of units	30% AMGI	$9,000

Scenario A: Tenant A moved in to Unit #25 as a ***"30% household."*** One year later at recertification, its income has increased to $13,500 (the next available unit rule is not triggered until $25,200). At the time of completion of the recertification, the tenant in Unit #25 can continue be counted as a ***"30% household"*** as long as its rent is restricted at **30% AMGI** ($225 maximum). As an alternative, Tenant A can be designated as either a ***"40% household," "50% household"*** or a ***"60% household"*** or it can be made a market rate unit. If the AMGI level of Tenant A is changed, it must be replaced by another ***"30% household"*** in order to maintain the project mix.

Scenario B: Tenant B moved into Unit #38 one year ago as a ***"40% household".*** Upon annual recertification, it is determined that Tenant B's income has now increased to $26,000 (more than 140% of the **Minimum Set-Aside AMGI**). Tenant B can continue to be counted as a ***"40% household"*** as long as its rent is restricted to the **40% AMGI,** however, the next available unit must be rented to a ***"40% household".*** After the next available unit is rented to a ***"40% household",*** Tenant B can be converted to a market rate unit.

Scenario C: Tenant C moved into a LIHTC unit with an annual income of $5,675 and was designated as a ***"30% household".*** At recertification, the household's income increased to $20,000. Since $20,000 is less than $25,200 (140% of the **Minimum Set-Aside AMGI),** the next available unit rule is not triggered. The household can continue to be counted as a ***"30% household"*** as long as its rent is restricted at that level or it can be made a ***"40%, 50%, or 60% household"*** or it can be made a market rate unit.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Housing Tax Credit Program

POLICY STATEMENT

PROHIBITION AGAINST APPLYING MINIMUM INCOME REQUIREMENTS FOR PROSPECTIVE SECTION 8 RECIPIENTS

IRC Section 42(h)(6)(B)(iv) prohibits refusing to lease to a Section 8 voucher or certificate holder simply because that person is such a holder. Leasing policies that discriminate or have the effect of excluding a large portion of Section 8 tenants are prohibited.

The Section 8 Existing certification and voucher programs provide for the monthly payment of a portion or all of the rent for its recipient. The risk of economic loss for owners/managers as a result of non-payment of rent is substantially reduced. The incomes of voucher and certificate holders must meet the HUD Section 8 guidelines in order to be eligible to participate in that program. Owners/managers may not establish minimum incomes for Section 8 applicants as a requirement for occupancy in an LIHTC development.

MSHDA's policy against imposing minimum income requirements applies only to Section 8 recipients and does not prohibit such restrictions for non-Section 8 tenants. A Section 8 household cannot be denied residency simply for its status as such or for failure to meet a development's minimum income requirement; however, a household can be denied residency if it fails to meet any other consistently applied screening criteria (e.g. criminal background, eviction history, credit rating).

This policy applies to all LIHTC projects and is effective immediately.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

COMMON AREA UNITS

IRS Revenue Ruling 92-61, which has an effective date of September 9, 1992, discusses the provision for including employee-occupied units within Housing Tax Credit (HTC) projects. To summarize the ruling, it may be permissible for a manager, assistant manager, or other employee of the owner to reside in a unit within a project. An employee can reside in a unit that is designated as common area or in a rental unit. A **"common area <u>unit</u>"** is a unit used for residential purposes, and does not include any units or space used as an office, storage, model apartment or for any other non-residential purpose. It supports and/or is reserved for the benefit of all the rental units. Under this interpretation, the unit is excluded from the low income occupancy calculation and the unit can be used by the manager without concern as to the effective rent being charged to or the income level of the manager. If this option is elected, the unit occupied by the resident manager is included in the building's eligible basis, but excluded from the applicable fraction for the purposes of determining the building's qualified basis. In order for a household to be eligible to reside in a unit that is designated as a common area unit, the head of household (or co-head) must be a <u>full-time</u> employee <u>at the particular development</u>. Persons who are employed less than full-time and persons who are employed at multiple projects (such as regional managers) at the development are not eligible to reside in a common area unit.

An employee could also reside in a unit that is designated as an **HTC residential unit.** All tenants, including employees of the development, occupying HTC rental units that are not "common area" must be certified as income-eligible, rent-restricted, and under a lease with an initial term of at least six months. As will be discussed later in this policy statement, the full amount of any rent concessions given the employee must be included as income for HTC purposes.

DESIGNATING A UNIT AS COMMON AREA

When completing the final allocation (Placed in Service) application, the owner must indicate whether or not the project will contain a common area unit(s). MSHDA reviews the unit configuration and determines whether or not to approve the common area unit. The Regulatory Agreement/Restrictive Covenant is then prepared and recorded indicating the unit configuration. The owner must designate a specific unit(s) as common area. The designation is made by completing a Resident Manager's / Employee Occupied Unit Designation Statement (HTC Form #047). This form is completed and submitted with the first annual certifications prepared for the project. The owner must identify the unit number (along with the square footage and number of bedrooms) and the address of the building in which the common area will be. If the option to designate the employee unit as a low income rental unit is selected, the appropriate monitoring fee must be paid for this unit(s).

Once designated, the project's configuration cannot be changed without prior written approval from the HTC Section of MSHDA.

ONE CHANGE PER SIX (6) MONTH PERIOD

Requests to change the number of or location of the common area unit(s) in the project must be submitted to the HTC Section of MSHDA in writing by the owner (not the management agent) of the project. Along with the request, a revised Common Area Unit Designation Statement must be submitted. Requests to change the designation may be made at any time during the year (not solely as part of the annual compliance certification submission process), however, only one change in the common unit(s) designation will be considered by MSHDA during any six(6) month period for any one project. For example:

> *Michigan Villas is an HTC project that contains three buildings and two common area units. The owner of the project requests that the location of one of the common area units be changed to a different building. MSHDA reviews the request and approves it in writing to the owner in a letter dated June 21, 1998. The project will not be eligible to make any other designation changes (of any type) to any units in the project until January 21, 1999 or after.*

RENT CONCESSIONS MUST BE COUNTED AS INCOME:

If the HUD Handbook does not specifically exclude a particular source of monies as income, it must be included, even if this may conflict with income tax laws {*HUD Handbook Section 2, Subsection 3-9(a) and 26 CFR 1.42-5 (b)(vii) - Tax Credit Compliance Monitoring Regulations*}. Thus, if the manager or employee receives free rent or a rent discount, the full imputed value of the rent or discount must be counted as income. This applies whether or not living on-site is optional or mandatory for the employee. For additional information regarding certifying incomes of tenants, see the Michigan HTC Compliance Manual.

In valuing the rent concession and determining how much should be included as income for employees living in HTC (non-common area) units, the amount should be the amount of rent that an HTC household living in the unit would pay rent plus the applicable utility allowance. For example:

> *Brenda recently accepted a position with Michigan Villas as a resident manager. Her compensation is $15,000 annual, plus she will receive a free residential unit at the development, which contains 100 units and has an applicable fraction of 100%, which does not include any common area units. The usual rent for her apartment is $400 per month. Her total compensation for LIHTC purposes will be $19,800 ($15,000 salary plus $4,800 in rent concessions). In order for Brenda to be eligible to reside in an HTC unit (non-common area), the maximum allowable income must $19,800 or higher.*

For employees residing in common area units, the value of the rent concession does not have to be counted as income (since the employee can reside in the common area unit without regard to the income of the household).

In projects with multiple Area Median Income targeting levels for its HTC units (i.e deeper targeting), the lower level(s) of income requirements must be satisfied with non-common area tenants. For example:

> *Michigan Villas has a total of 100 residential units. Of those 100 total, 70 must be occupied at 60% AMI and 30 units at 20% AMGI. If the project includes a common area unit, it must be one of the 60% AMGI units. Thirty units must always be maintained at the 20% AMGI level.*

Any changes without prior written approval from the HTC Section will be deemed as potential noncompliance and reported to the IRS. All requests for changes must be submitted to MSHDA in writing by the owner, not the management agent.

LIHTC Policy #12
December 15, 2003

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

ISSUANCE OF RETURNED OR RECAPTURED CREDIT

This policy bulletin outlines MSHDA's guidelines for use of returned or recaptured tax credit which was allocated in a previous year.

A tax credit recipient may be unable to fulfill the requirements set forth in the Qualified Allocation Plan. Consequently, the recipient may return the credit or MSHDA may be required to recapture the credit. At the sole discretion of the Authority, returned or recaptured tax credit may be reissued employing the following criteria:

1. Returned or recaptured credit may be made available in the upcoming funding round; or

2. Returned or recaptured credit may be awarded to a project(s) that have been determined in a previous funding round or in the Preservation Holdback to be eligible for credit, but for which no credit was available.

LIHTC Policy #14
October 31, 2003

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

APPLICATION PRE-REVIEWS

- Pre-review applications must be submitted at least 30 days prior to a funding round.
- Appointments for pre-reviews with Tax Credit staff must be made through Carol Thompson: Phone (517) 373-6007 or E-mail ThompsonCS@michigan.gov.
- Marketing, Environmental, Special Needs, Affirmative Fair Housing Marketing Plan, or Tax Abatement pre-reviews must be scheduled independently with the appropriate MSHDA staff.
- Pre-reviews will be based solely on the information/documentation received.
- Pre-review are not to be interpreted as a final determination of either points or Tax Credit award.
- Tax Credit awards will be solely based on the information/documentation submitted in the final application.
- Pre-reviews are the opinion of one reviewer. Final application and documentation submitted will have multiple reviewers with no guarantee of the same result.
- Applicants are responsible for addressing recommendations made by tax credit staff prior to funding round submission.

LIHTC Policy #15
February 28, 2005

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

DEFINITION OF FEDERAL STATE OR LOCAL FUNDS

This policy statement outlines the types of funding that will be awarded points under use of financing, grants, or in-kind contributions from federal, state, or local sources in Michigan's Qualified Allocation Plan.

- Community Development Block Grant (CDBG) funds
- HOME loans or grants
- Department of Housing and Urban Development (HUD) loans or grants (but not loan guarantees)
- Michigan State Housing Development Authority (MSHDA) loans or grants
- Local municipality loans or grants
- Local philanthropic organization loans or grants
- In-kind contributions from the local municipality or local organizations – e.g., donated building or land.
- Federal Home Loan Bank (FHLB) Community Investment Program (CIP) loans
- Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) grants
- Rural Development (RD) loans (but not loan guarantees)
- State and/or Federal Historic Tax Credit

LIHTC Policy #16
May 30, 2003

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

TENANT OWNERSHIP

Three points are awarded under Michigan's Qualified Allocation Plan for projects where the owner agrees to transfer 100 percent of the housing tax credit units ownership at the end of the initial 15-year compliance period from the initial ownership entity of the project to tenant ownership. These points are available only for single family, townhouse or duplex units. The sales price cannot exceed the outstanding principal mortgage balance for the unit. To qualify for the points, the owner must provide a detailed proposal for eventual tenant ownership. The plan must incorporate a limited partnership ownership exit strategy and the provision of services including home ownership, education, training and down payment assistance, where necessary.

To qualify for the points, the questions listed below must be answered and included as Tab 7 with the application package.

1. How and when will the tenant be informed of their option to purchase the property?

2. How will the unit be converted from rental to home ownership?

3. What is the exit strategy for the developer?

4. How will the developer notify his/her investor?

5. How will the purchase price be determined? Will a pay-off letter be provided at the time of the closing? (Remember, the sales price cannot exceed the outstanding principal mortgage balance for the unit.)

6. Will the owner provide title insurance?

7. Will the buyer be given a warranty deed?

8. Who will instruct the buyer to file for Michigan's Homestead Exemption?

9. Will there be down-payment assistance? If yes, what agencies will be used and how will the buyer be made aware of the agencies?

10. Will a licensed housing inspector inspect the unit before it is sold? If there are required repairs, who will pay for them? If the owner is paying for repairs, will there be an escrow agreement if applicable?

11. What will happen if the tenant decides to sell the property? Will there be any resale or sale price restrictions?

LIHTC Policy #17
December 12, 2001

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

COMPLIANCE MONITORING FEE FOR TAX-EXEMPT PROJECTS

On January 1, 2001, the following compliance monitoring fees became effective: All units for which an allocation of credit was not made by December 31, 2000 must pay the sum of $300 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of For 8609.

All projects that received an Allocation of credit prior to January 1, 2001 were allowed to pay $175 per low income unit regardless of the placed in service date.

Several projects that are financed with tax-exempt bonds received a Reservation of credit prior to January 1, 2001. Because the tax-exempt financed projects are subject to Section 42(h)(4) which exempts tax-exempt projects from the carryover requirement, and a Carryover Allocation can be issued only during the month in which the bonds were sold, only a Reservation and Commitment of tax credit were issued for these projects.

The Authority understands that the projects would have obtained a Carryover Allocation if necessary, and thus, will allow tax-exempt projects which received a Reservation and/or Commitment of tax credit prior to January 1, 2001, and which have been progressing toward completion with no interruptions, to pay $175 per low income unit regardless of the placed in service date.

LIHTC Policy #19
December 13, 2005

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

USE OF TAX CREDIT IN A COOL CITIES DESIGNATION

The following requirements must be met by any project applying for the Cool Cities holdback of Low Income Housing Tax Credit:

- Applications will **not** be accepted prior to the beginning of a calendar year.
- Applications will **only** be accepted for processing by mail or common carrier.
- For applications received within the first ten calendar days of the calendar year, the Authority and representatives from the for-profit and non-profit development community will conduct a lottery to determine the **order** in which applications will be processed and evaluated.
- Applications received after the tenth day of the calendar year through August 15th will be placed in the **order** in which they are received. In the event that more than one application is received on the same day, projects serving the greater percentage of low income tenants and projects obligated to serve qualified tenants for the longest period will be given highest priority.
- If there are deficiencies within an application selected for evaluation, the deficiencies will be noted and processing of the application will be suspended. Applicants will have the opportunity to cure deficiencies; however, such applications will be placed at the bottom of the evaluation list when acceptable corrections are received by the Authority. Re-evaluation and awarding of credit for a suspended application will depend upon the availability of credit as other applications are evaluated and the suspended application advances from the bottom of the evaluation list. Once the credit authority has been reserved, detailed evaluations of remaining applications will cease.
- The Authority may request additional material if an otherwise eligible project faces possible rejection because of an oversight. Requested material must be submitted within ten days. Under no circumstance will it be used to change a project score.
- No more than 45% of the credit reserved under the Cool Cities holdback will be allocated to projects located within a single city, village, or township.
- Eligible properties are limited to projects of 24 or fewer units, inclusive of the manager's unit if provided.
- Projects must be located in a designated State of Michigan Cool Cities neighborhood.
- A project must score a minimum of 100 points under Michigan's Qualified Allocation Plan to be eligible.

- All requirements of Michigan's Qualified Allocation Plan must be met.

- Only projects receiving an initial tax credit award under the Cool Cities holdback will be allowed to compete for additional credit under this holdback.

The Cool Cities program is more than the sum of one housing development; it is a carefully thought out plan that brings a neighborhood together and revitalizes it. The following must be submitted with all applications:

1. Provide a map outlining the entire Cool Cities neighborhood showing where the development is located within the Cool Cities neighborhood boundaries. The map must also outline the Cool Cities neighborhood relative to its:
    a. Arts and culture;
    b. Pedestrian-friendly environment/pedestrian activity;
    c. Residential and commercial density;
    d. Historic district, if applicable; and
    e. Recreational opportunities/parks

2. Support from the local unit of government:
    a. Provide an executed letter of support from the local government on official letterhead that shows support for the project.

3. Provide a letter on official letterhead executed by a representative of the Cool Cities neighborhood (Catalyst grantee) entity verifying that you have discussed the development with him/her. In this correspondence the grantee must outline the following:
    a. How the development blends with the goals of the Cool Cities neighborhood plan.
    b. How the development will improve or enhance successful revitalization in the neighborhood.
    c. The various sources of financing that have been committed within the boundaries of the Cool Cities designation, i.e., federal, state, or local monies, grants, philanthropic donations, conventional financing.

In addition to meeting program requirements to participate in the LIHTC program, final Cool Cities tax credit awards are subject to review and approval of MSHDA's Cool Cities specialist and Cool Cities Neighborhood Champion staff.

LIHTC Policy #20
March 29, 2005

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

FINANCIAL CAPACITY AND CREDITWORTHINESS

The sponsor and contractor will be evaluated and approved for financial capacity and creditworthiness based on the following:

1. All sponsors and contractors shall submit financial statements that are as of a date no more than six months prior to the date of application. If, upon review of such financial statements, it is determined that more recent financial statements are needed in order for the Authority to adequately evaluate the financial condition of the issuer, they will be requested.

2. Financial Statements for individuals proposing to be the sponsor or general contractor of a housing development, including each individual member of a partnership, must be submitted on MSHDA's standard individual financial statement form. In addition to the financial statements required of the individual partners of a partnership, financial statements of the partnership itself, if it has been formed, are required to be submitted. Such statements are not required to be audited, nor are they required to be on the MSHDA form.

   Corporations proposing to be the sponsors or general contractors of a housing development must submit an audited balance sheet that is as of a date no more than 15 months prior to the date submitted. In addition, if the balance sheet is as of a date more than six months prior to the date submitted, an interim balance sheet as of a date less than six months prior to the current date must be submitted. Such balance sheet must be in a form substantially the same as the audited balance sheet. In lieu of an audited balance sheet, a balance sheet can be submitted that is prepared by an independent CPA or prepared by a CPA who is an employee of the proposed sponsor or contractor. If it is prepared without audit by an independent CPA, the balance sheet must be accompanied by a letter from such CPA stating that the CPA has prepared or compiled the balance sheet from the books and records of the corporation. If it is prepared by a CPA employed by the corporation, a letter must accompany the balance sheet signed by the CPA to the effect that although the CPA has not performed an audit of the balance sheet and furthermore is employed by the corporation and thus is not independent, to the best of the CPA's knowledge and belief the balance sheet accurately reflects the financial position of the corporation. In both of these cases, the balance sheet must be accompanied by a statement from the chief executive or operating officer and the chief financial officer of the corporation to the effect that the balance sheet presents fairly the financial position of the corporation to the best of each person's knowledge and belief. If the corporation is inactive or newly formed, the Authority may require personal financial statements of the owners and will require evidence of the existence of the assets being used to meet the Authority's requirements per item 6 below.

The financial statements of non-profits sponsors are not required to be audited or prepared by a CPA. Included in the calculation of the non-profit's resources will be the anticipated proceeds from syndication of the project.

3. The Authority will not approve the allocation of tax credits if the sponsor or contractor has outstanding tax liens, or does not have a reasonable credit payment history.

4. Projects submitted by an owner, sponsor, developer or related party or entity that currently has a project or projects out of compliance will not be accepted until the event of non-compliance is corrected.

5. Contractors must have net liquid assets at least equal to 3% of the proposed construction contract. Net liquid assets include cash and assets readily convertible into and likely to be converted into cash, less current liabilities. An unconditional letter of credit or line of credit from a bank or other provider, including an affiliated company or individual, may be included in liquid assets provided that the term of any loan or draw extended on such line of credit or letter of credit is for at least one year and, if the provider is an affiliated company or individual, such provider must have net worth at least equal to 5% of the total development costs. Listed stocks and bonds can also be included in liquid assets, but IRA and/or Keogh accounts cannot be included. It will be up to the discretion of the Authority as to what assets can be included in liquid assets and the judgment will be made based on the likely availability of such items for meeting working capital needs on the proposed project.

6. Sponsors will be required to have a net worth, in the aggregate, equal to at least 5% of the total of the amount of proposed mortgage loans.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

GUIDELINES FOR REVIEWING ELIGIBLE PROJECTS

In accordance with MSHDA's Qualified Allocation Plan, this policy statement outlines MSHDA's guidelines to determine the **order** in which *applications meeting the Authority's official threshold score* in each funding round will be evaluated.

In each funding round, Authority staff and representatives from the for-profit and non-profit development community will conduct a separate drawing for:

- Preservation holdback
- Small size holdback
- Special needs holdback
- General funding round

For Cool Cities applications received within the first ten calendar days of the calendar year, the Authority and representatives from the for-profit and non-profit development community will conduct a lottery to determine the order in which applications will be processed and evaluated.

Applications received after the tenth day of the calendar year through August 15th will be placed in the **order** in which they are received.

A drawing will **<u>not</u>** be conducted for tax exempt bond-financed projects not subject to housing credit ceiling, as these projects are not subject to funding rounds.

The time and place of the drawing, along with a list of eligible applicants, will be published on the Authority's website (www.michigan.gov/mshda) one week before the drawing is to be conducted. Attendance is open to the general public.

The Authority will maintain a record of all applications/projects submitted in each funding round including, but not limited to: the project name; the ranking received within the applicant's selected holdback or general category (or other disposition of the application if applicable); names of representatives conducting the drawing; and acknowledgement by those representatives that all applications placed in the drawing were accurately accounted for.

Each eligible project's name will be entered once into the drawing for the selected holdback or general funding round. **Eligibility must be maintained throughout the evaluation process**. Project ranking will be in ascending order.

The first project selected will be the first evaluated, the second project selected will be the second evaluated, etc.

The Authority will evaluate applications representing approximately 150% of the available credit to be allocated under the preservation holdback, the small size holdback, the special needs holdback, and the general funding round.

If there are deficiencies within an application selected for evaluation, the deficiencies will be noted and processing of the application will be suspended. Applicants will have an opportunity to cure deficiencies, but such applications will be placed at the bottom of the evaluation list when the Authority receives acceptable corrections. Applications falling below the threshold score, however, will not be allowed to cure deficiencies to restore points and maintain eligibility. Re-evaluation and awarding of credit for suspended applications will depend upon the availability of credit as other applications are evaluated and the suspended application advances from the bottom of the evaluation list.

Once the credit authority for each holdback/category in each funding round has been reserved, detailed evaluations of remaining applications will cease and any applications not reviewed must be submitted in a subsequent funding round for further consideration.

Eligible applications that do not receive allocations will receive additional consideration in later funding rounds if the same, identical project is re-submitted, provided that the application meets or exceeds the threshold score in the current funding round. A project's name will **<u>not</u>** be entered a second time if, in the previous funding round, there was a deficiency in the application and an opportunity to cure was provided, but the applicant chose not to cure within the allotted time.